



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Rogitz & Associates
750 B Street
Suite 3120
San Diego, CA 92101

In re Application of

Hilt, et al.

Application No. 09/944,655

Filed: August 31, 2001

Attorney Docket No. 50R4741

COPY MAILED

AUG 14 2006

OFFICE OF PETITIONS

:

:

:

DECISION ON PETITION

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181(a), filed June 6, 2006.

The petition is **granted**.

This application was held abandoned on April 28, 2005, after no reply was received to the final Office action mailed January 27, 2005. The notice set forth a shortened statutory period of reply of three months from its mailing date. Extensions under 37 CFR 1.136(a) were available. No response was received within the allowable period and the application became abandoned on April 28, 2005. A Notice of Abandonment was mailed September 6, 2005. The instant petition was filed on June 6, 2006. Petitioner maintains that the notice of January 27, 2005, was never received and provides a copy of the relevant docketing calendar as proof of the same.

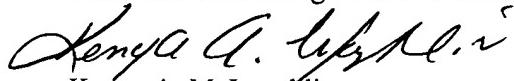
Section 711.03(c)(II) of the *Manual of Patent Examining Procedure* ("MPEP") provides that in order to establish non-receipt of an Office action so as to prove that the imposition of a holding of abandonment is improper, petitioner must: 1) provide a statement to the Office indicating that the Office action was not received by petitioner; 2) include in the statement an attestation to the fact that a review of the file jacket and docket records maintained by petitioner indicates that the Office action was not received; and 3) provide a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed.

Petitioner has met the burden of proof as established by Section 711.03(c)(II) of the MPEP. The holding of abandonment is, therefore, withdrawn.

The Power of Attorney and Correspondence Address Indication Form, filed October 11, 2004, has been entered and made of record.

The application file is being forwarded to Technology Center 2100, GAU 2193, for further processing including remailing of the final Office action and resetting of the time period for reply.

Questions concerning this decision should be directed to the undersigned at (571) 272-3222.



Kenya A. McLaughlin
Petitions Attorney
Office of Petitions